

Transcript

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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION

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In the Matter of: :  
: :  
TCR SPORTS BROADCASTING : MB Docket No.  
HOLDING, L.L.P., D/B/A : 08-214  
MID-ATLANTIC SPORTS :  
NETWORK, : File No.  
: CSR-8001-P

Complainant, :  
: :  
v. :  
: :  
COMCAST CORPORATION, :  
: :  
Defendant. :  
: :  
-----1/4

Volume 22

Federal Communications Commission  
445 12th Street, SW

Washington, D.C. 20554  
Hearing Room TW-A363

→ Thursday, May 21, 2009  
9:30 a.m.

BEFORE:

RICHARD L. SIPPEL,  
Chief Administrative Law Judge

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1 P-R-O-C-E-E-D-I-N-G-S

2 (9:35 a.m.)

3 JUDGE SIPPEL: Let's go on the  
4 record. Your first witness looks familiar to  
5 me. Hi, Mr. Bond.

6 THE WITNESS: Good morning.

7 JUDGE SIPPEL: The same. Okay,  
8 007, here we go. Okay. Who's going to start?

9 MR. TOLLIN: May I approach the  
10 witness?

11 JUDGE SIPPEL: Certainly, Mr.  
12 Tollin. Certainly, sir. Good morning.

13 MR. TOLLIN: Yes. He does have to  
14 be sworn in first.

15 JUDGE SIPPEL: Well, that's true.  
16 Please stand up and raise your right hand.

17 WHEREUPON,

18 MADISON BOND

19 was called as a witness and, after having been  
20 first duly sworn, was examined and testified  
21 as follows:

22 JUDGE SIPPEL: All right. Please

1 be seated.

2 DIRECT EXAMINATION

3 BY MR. TOLLIN:

4 Q Mr. Bond, I'm handing you your 13-  
5 page written direct for identification.

6 JUDGE SIPPEL: I know, they don't  
7 design those -- you think that they would  
8 design them for 8-1/2 by 11 paper.

9 MR. TOLLIN: Your Honor.

10 JUDGE SIPPEL: Thanks. I've got a  
11 lot of them here. You gave me three.

12 MR. TOLLIN: Oh, did I give you  
13 too many? I'm sorry.

14 BY MR. TOLLIN:

15 Q Okay. Is this -

16 MR. TOLLIN: Your Honor, we're  
17 going to try to stay away from confidential  
18 material this morning. But, of course, on  
19 cross we'll have to see what happens. But on  
20 direct, there should be no problem at all.

21 JUDGE SIPPEL: All right. What  
22 about this confidential designation? Do we

1 have to leave that, or can we take that off?

2 MR. TOLLIN: On his written

3 direct? We have to leave it.

4 JUDGE SIPPEL: All right.

5 MR. TOLLIN: I'm sorry.

6 JUDGE SIPPEL: That's okay, but

7 you will get mass copies available to the

8 press office when you get a chance.

9 MR. TOLLIN: Sure.

10 MR. KIRK: They should already be

11 there, Your Honor.

12 JUDGE SIPPEL: All right. That's

13 fine.

14 BY MR. TOLLIN:

15 Q Is this your written direct

16 testimony?

17 A Yes.

18 Q And can you look at the last page

19 to see if that's your signature?

20 A It is.

21 Q Is your written direct testimony

22 true and correct?

1           A       Yes.

2           Q       I'd like to ask you a few  
3 questions just to summarize your written  
4 testimony.

5                   MR. TOLLIN: They'll be relatively  
6 quick, Your Honor.

7                   BY MR. TOLLIN:

8           Q       What is your position at Comcast,  
9 and what are your responsibilities?

10          A       I'm Executive Vice President of  
11 Content Acquisition for Comcast Cable, and  
12 responsible for negotiating content  
13 acquisition deals with various content  
14 suppliers to the cable group.

15          Q       Can you explain how the company is  
16 set up with regard to programming content and  
17 distribution?

18          A       My group reports to Steve Burke,  
19 who is the head of the cable group. The  
20 Content Programming Group, or Ownership Group  
21 of Comcast Programming Assets is managed by  
22 Jeff Shell, who reports to Steve Burke.



1           Q       Were you personally involved in  
2     the negotiations that led up to the carriage  
3     agreement with MASN in August 2006?

4           A       Yes, I was.

5           Q       Did you reach an agreement with  
6     MASN in August 2006 regarding carriage?

7           A       We did.

8           Q       Can you describe, in your mind,  
9     some of the key features of the agreement?

10          A       The deal allowed us to license  
11     access to the MASN programming feed for  
12     Comcast Cable systems. It established a rate  
13     for the carriage of that service over its  
14     term, over the term of the deal. It set forth  
15     an obligation to carry in about 90 percent of  
16     the subscribers within the region. Remaining  
17     Comcast systems were subject to the agreement,  
18     but launches in those systems were  
19     discretionary.

20          Q       Did your affiliates, when I say  
21     your affiliates, the company affiliates, play  
22     any role in the negotiations or decision to

1 reach this agreement?

2 A No.

3 Q When did the parties execute the  
4 agreement?

5 A August of '06.

6 Q After the agreement was executed,  
7 did MASN push for carriage in Harrisburg,  
8 Roanoke, Lynchburg, or Tri-Cities?

9 A Yes, about eight months later.

10 Q What were they contending?

11 A Initially, they said it was a  
12 mistake that those systems were not part of  
13 the agreement.

14 Q And how did you respond to that?

15 A I said it wasn't a mistake. The  
16 agreement was clear as to the obligations, and  
17 specifically said there was no obligation to  
18 launch, in fact, said that the remaining  
19 systems were discretionary.

20 Q And what was the -- how did things  
21 evolve when we got closer to the filing of the  
22 FCC complaint? Did their theory change?

1           A       Well, we attempted to settle this  
2   dispute, as well as another dispute we were  
3   having with them over the course of about a  
4   year, and I wasn't able to get it settled.  
5   And they then said that there was fraud. They  
6   evolved their claim and said that it was now  
7   a claim of fraud, and that we had defrauded  
8   them, and misrepresented, and they were going  
9   to file something in the FCC.

10          Q       And what was your response to the  
11   fraud theory?

12          A       Well, I was upset at the  
13   allegation, which was completely false. We  
14   were very straight up in the negotiation with  
15   them, and the agreement was clear.

16          Q       What was MASN's explanation for  
17   why it should be carried in the three areas  
18   that are in dispute in this case?

19          A       Basically, that they wanted full  
20   carriage.

21          Q       Did it relate to negotiations?

22          A       Other than them saying that they

1 thought they had gotten full carriage, and  
2 they wanted full carriage.

3 Q Was the failure to reach an  
4 agreement in 2007 and 8 in any way  
5 attributable to anything to do -- did it have  
6 anything to do with your affiliates?

7 A No. I tried very hard to get it  
8 settled, devoted a lot of time to it.

9 Q You did devote a lot of time to  
10 getting it settled?

11 A I did.

12 Q And your affiliates had nothing to  
13 do with it. Right?

14 A No.

15 MR. TOLLIN: Okay. Your Honor,  
16 Comcast Exhibit 1 has already been received  
17 into evidence, and he's your witness.

18 JUDGE SIPPEL: Thank you.

19 MR. FREDERICK: Thank you, Your  
20 Honor.

21 JUDGE SIPPEL: Yes, Mr. Frederick.

22 MR. FREDERICK: Good morning, Mr.

1 Bond.

2 THE WITNESS: Good morning.

3 CROSS EXAMINATION

4 BY MR. FREDERICK:

5 Q You started working at Comcast at  
6 the end of 2002. Correct?

7 A I did.

8 Q Prior to that, you worked for the  
9 YES Network. Correct?

10 A Yes, I did.

11 Q And YES Network stands for Yankees  
12 Entertainment and Sports. Correct?

13 A Yes.

14 Q The YES Network is owned by the  
15 New York Yankees. Correct?

16 A Partially.

17 Q And the Yankees and Orioles play  
18 in the American League East Division.  
19 Correct?

20 A Yes.

21 Q Now you report to Steve Burke.  
22 Correct?

1 A Yes.

2 Q And Burke is the President of  
3 Comcast Corporation. Correct?

4 A No, I -- yes, actually, I think he  
5 is the President of Comcast Corporation.

6 Q And he reports to the Chairman,  
7 Mr. Brian Roberts. Correct?

8 A Yes.

9 Q I want to ask you about Washington  
10 Nationals programming. I'm going to take you  
11 back to September 2004.

12 A Okay.

13 Q In that time period, Major League  
14 Baseball announced that the Montreal Expos  
15 would relocate to Washington, and become the  
16 Washington Nationals. Correct?

17 A Yes.

18 Q Comcast sought to obtain the  
19 rights to telecast the Nationals games.  
20 Correct?

21 A Yes.

22 Q And Comcast thought that those

1 National telecast rights were valuable.

2 Correct?

3 A Yes.

4 Q Comcast wanted the Nationals  
5 telecast rights, even though the team was new  
6 to the market. Correct?

7 A Yes.

8 Q And Comcast thinks that sports  
9 programming is important to its business  
10 model. Correct?

11 A Do you mean the RSN business  
12 model?

13 Q The Comcast Corporation business  
14 model.

15 A It's a broad statement, but those  
16 are valuable rights, yes.

17 Q Is it a fact that Mr. Stephen  
18 Burke has testified that he would like Comcast  
19 to have a greater percentage of sports  
20 programming rights as part of the revenue mix  
21 for Comcast?

22 A I don't know if he testified to

1 that or not.

2 Q Is it a fact that Comcast is the  
3 dominant cable provider in Washington, D.C.?

4 A Yes.

5 Q Is it a fact that Comcast is the  
6 dominant cable provider in Baltimore?

7 A Yes.

8 Q Is it true that Comcast wanted to  
9 keep the Orioles with Comcast Sports Net Mid-  
10 Atlantic?

11 A Yes.

12 Q Is it true that Comcast was  
13 unhappy that Major League Baseball made a deal  
14 with the Orioles that pooled the Nationals  
15 rights with MASN?

16 A I don't know if I would  
17 characterize an emotional state, but I think  
18 Comcast sought to retain the rights for the  
19 Orioles on CSNMA.

20 Q Is it your testimony that there  
21 was no emotional reaction among the leadership  
22 of Comcast Corporation?



1           A       I wasn't that involved in those  
2 negotiations, David, so I can't respond to a  
3 statement about an emotional reaction.

4           Q       That's not my question, Mr. Bond.  
5 My question was whether top executives  
6 expressed an emotional reaction to Comcast  
7 losing the telecast rights to MASN.

8           A       I don't know that I ever saw an  
9 emotional reaction. We clearly were  
10 interested in seeking the rights.

11          Q       And you lost those rights.

12          A       Yes.

13          Q       The first Nationals game was  
14 telecast by MASN in early April 2005.  
15 Correct?

16          A       I'm sorry, did you say the --  
17 which games?

18          Q       The first Nationals game -

19          A       Nationals games, correct.

20          Q       -- was telecast by MASN in early  
21 April 2005.

22          A       Yes.

1           Q       You met with MASN representatives  
2   on April 14, 2005 in Philadelphia to discuss  
3   carriage. Correct?

4           A       Yes.

5           Q       The MASN representatives traveled  
6   to Philadelphia to meet with you.

7           A       Yes.

8           Q       MASN offered Comcast a term sheet  
9   for carriage. Correct?

10          A       I don't recall if they offered us  
11   a term sheet.

12          Q       MASN asked for carriage on all  
13   Comcast systems within MASN's television  
14   territory.

15          A       I don't recall if they  
16   specifically asked for that.

17          Q       Comcast made no commitment to MASN  
18   at that time.

19          A       Correct.

20          Q       A week later, on April 21st, 2006,  
21   Comcast's affiliated RSN, CSNMA, filed suit  
22   against the Orioles, Major League Baseball,

1 and TCR Sports Broadcasting Holding in  
2 Maryland State Court. Correct?

3 A I don't know the timing of that  
4 litigation.

5 MR. FREDERICK: Your Honor, may I  
6 approach the witness?

7 JUDGE SIPPEL: You may. Exhibit  
8 300. Is this in evidence yet?

9 (WHEREUPON, THE DOCUMENT REFERRED  
10 TO WAS MARKED AS MASN EXHIBIT 300  
11 FOR IDENTIFICATION.)

12 MR. FREDERICK: No, it isn't, Your  
13 Honor.

14 JUDGE SIPPEL: All right.

15 BY MR. FREDERICK:

16 Q Mr. Bond, have you ever seen this  
17 document before?

18 A No.

19 Q Does it appear to be a complaint  
20 filed by Comcast Sports Net Mid-Atlantic in  
21 the Circuit Court for Montgomery County,  
22 Maryland?

1           A       That's what it appears to be.

2           Q       Is that complaint signed by  
3 counsel for Comcast?

4           A       I suppose. It's signed by John  
5 Quinn, Ethridge, Quinn, McAuliffe, Rowan &  
6 Hartinger.

7           Q       And do -

8           A       I assume that's counsel for the  
9 plaintiffs.

10          Q       Okay. Am I right, Mr. Bond, and  
11 we'll get back to the complaint in just a  
12 second.

13          A       Okay.

14          Q       I just want to lay a couple of  
15 questions. Am I right that you expect that  
16 people with -- that you treat the people with  
17 whom you negotiate with respect?

18          A       Yes.

19          Q       And you expect that people with  
20 whom you negotiate to treat you the way you'd  
21 like to be treated.

22          A       Yes.

1           Q       And you expect people to be able  
2   to trust you when you negotiate with them.

3           A       Yes.

4           Q       You didn't call anyone from MASN  
5   to give them a head's up about this lawsuit,  
6   did you?

7           A       I don't recall doing that.

8           Q       Comcast filed the first lawsuit  
9   between these parties. Correct?

10           MR. TOLLIN: Your Honor, I object.  
11   He's already said he doesn't know when this  
12   was filed, or really anything about this  
13   complaint. I mean, these questions are  
14   going-

15           JUDGE SIPPEL: I'm going to  
16   sustain the objection, unless you can  
17   establish a better foundation to connect this  
18   person, Mr. Bond, with the exhibit.

19           MR. FREDERICK: Your Honor, let me  
20   try to do that.

21           JUDGE SIPPEL: Yes, sir.

22           BY MR. FREDERICK:

1           Q       Mr. Bond, the date of your meeting  
2     with MASN was April 14, 2005. Correct?

3           A       Yes. I don't recall the exact  
4     date, but I remember it was in April.

5           Q       And a week later, Comcast Sports  
6     Net Mid-Atlantic files this lawsuit in  
7     Maryland.

8           A       I said I don't recall when the  
9     lawsuit was filed.

10          Q       At or about a week later, did you  
11     become aware of a lawsuit between Comcast  
12     Sports Net Mid-Atlantic and MASN?

13          A       To be honest, I don't recall when  
14     I became aware of the lawsuit, or what the  
15     timing was of the lawsuit.

16          Q       At some time after your meeting  
17     with MASN, did you become aware that Comcast  
18     Sports Net Mid-Atlantic had filed a lawsuit? )

19          A       To be honest, I don't recall when  
20     the lawsuit was filed, whether it was before  
21     or after. I'm sorry, I just don't recall.

22          Q       Is it true that after April 21st,

1 2005 you did not have any discussions with  
2 MASN folks pertaining to a carriage agreement  
3 for quite some time?

4 A Yes, that's true.

5 Q Do you have a recollection sitting  
6 here today as to why there were no discussions  
7 between you and MASN representatives for quite  
8 some time over a carriage agreement they had  
9 presented to you on April the 14th, 2005?

10 A Well, the MASN proposal, my  
11 recollection of it was, MASN proposal wasn't  
12 that attractive. It was at that point just  
13 the Nationals. They had a process in there  
14 that would happen, something would happen if  
15 they got the Orioles. But, at that point in  
16 time, it was the Nationals, and it was a high  
17 price, so it didn't seem that productive.

18 Q Was it Comcast's intention to  
19 telecast the Nationals throughout the  
20 Nationals television territory?

21 A I'm sorry. I don't understand the  
22 question.

1           Q       When Comcast sought the rights to  
2   the Nationals, was it Comcast's intention to  
3   telecast the Nationals games throughout the  
4   Nationals television territory?

5           A       Well, I wasn't really involved in  
6   that, but I assume they would have put it on  
7   CSNMA, and it would have gotten the carriage  
8   that CSNMA had.

9           Q       Are you not the head of Content  
10  Acquisition for Comcast Cable?

11          A       Yes.

12          Q       Is it your testimony, you were not  
13  involved in discussions with Major League  
14  Baseball over the acquisition of Nationals  
15  television rights?

16          A       I was tangentially involved in  
17  those discussions.

18          Q       Were you aware that Comcast sought  
19  to telecast the Nationals games?

20          A       Yes.

21          Q       If there had been a deal, you  
22  would have been the person to negotiate that



1 deal. Correct?

2 A No, I don't think so.

3 Q You would have been the person who  
4 would have signed off on any contract of  
5 carriage between the Nationals and Comcast.  
6 Correct?

7 A Well, I think what would have  
8 happened is, the games would have gone on  
9 CSNMA, so that would have been a deal between  
10 CSNMA and the Nationals, and then there would  
11 be a carriage arrangement between CSNMA and  
12 Comcast.

13 Q Is it true that the purpose of the  
14 lawsuit was for CSNMA to retain the rights to  
15 the Orioles games?

16 MR. TOLLIN: Objection. He  
17 doesn't -- he's already testified he doesn't  
18 know much about the lawsuit.

19 JUDGE SIPPEL: Well, I'm going to  
20 sustain the objection. I think if you can lay  
21 a foundation, again. Does he know anything  
22 about the nature of the lawsuit, is the first